

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10731RWZ⁸

DEBORAH A. WEINBERGER)
)
Plaintiff,)
)
v.)
)
ARNE OJALA and DOWN CAPE)
ENGINEERING, INC.)
)
Defendants)

**PLAINTIFF DEBORAH A. WEINBERGER'S MOTION TO COMPEL
DISCOVERY RESPONSES**

Now comes Plaintiff, Deborah A. Weinberger ("Plaintiff"), and moves this Court to compel Defendants Arne Ojala and Down Cape Engineering, Inc. (collectively, "Defendants") to respond to her Request for Production of Documents and her Interrogatories. In support thereof, Plaintiff states as follows:

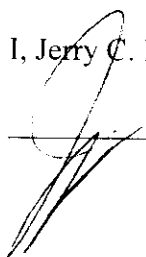
1. The Scheduling Order in this action required the parties to serve written discovery by August 25, 2004 and to serve all responses to written discovery by October 1, 2004.
2. On August 25, 2004, Plaintiff served a Request for Production of Documents and a set of Interrogatories on Defendant Arne Ojala and a Request for Production of Documents and a set of Interrogatories on Defendant Down Cape Engineering, Inc.
3. As of the date of this Motion, neither Defendant has responded to the discovery requests other than by promising, through their attorney, to respond to the requests in the near future.

4. The case is on a short Schedule of events: depositions are to be concluded by December 18, 2004.
5. Defendants produced not one piece of paper to Plaintiff in making their Rule 16 disclosures, stating that Plaintiff "already has all the documents."
6. Defendants' failure to respond to discovery has prejudiced Plaintiff's ability to investigate and prosecute this litigation.
7. On October 15, 2004 at approximately 9:30 a.m. counsel for Plaintiff engaged in a discovery with counsel for Defendants, by phone, lasting approximately five minutes, concerning the over-due discovery. Defendants' counsel promised to try to serve the outstanding discovery in the next week or so. Plaintiff's counsel stated that without any firm guarantees, and given the lateness of the discovery and the short schedule of events in the action, he determined the need to file a Motion to Compel.

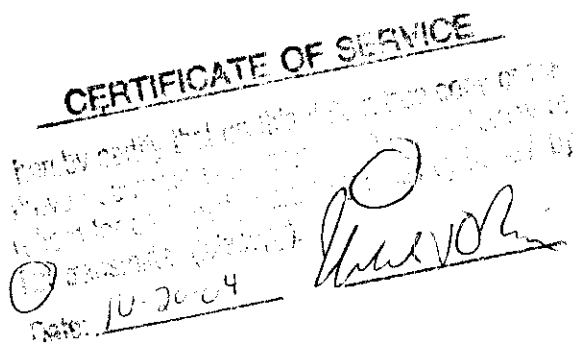
WHEREFORE, Plaintiff prays that this Court:

1. order each Defendant to serve a Response to Plaintiff's document request, along with all documents responsive to the Request, and Answers to Interrogatories within five days of the Court's Order;
2. order Defendant's to make their expert disclosures within five day's of the Court's Order
3. award Plaintiff's her costs and fees incurred in bringing this Motion; and
4. issue such other and further relief as the Court deems appropriate and just.

I, Jerry C. Effren, counsel for Plaintiff, certify compliance with Local Rule 37.1:



Jerry C. Effren



Respectfully submitted,
Plaintiff, Deborah A. Weinberger
By her attorney:

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